

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

Dillinger, LLC,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:12-cv-0714 WTL TAB
	)	
	)	
The Pour House On Lincoln, Inc., Mary Olsen,	)	
William Olsen, and Donald Druse,	)	
	)	
Defendants.	)	

**PLAINTIFF’S OPPOSITION TO DEFENDANTS’ MOTION FOR  
EXTENSION OF TIME TO RESPOND TO PLAINTIFF’S COMPLAINT**

Plaintiff Dillinger, LLC (“Dillinger”), by counsel, opposes Defendants Pour House on Lincoln, Inc., Mary Olsen and William Olsen’s (collectively the “Defendants”) Motion for Extension of Time to Respond to Plaintiff’s Complaint, and in support thereof, state as follows:

1. Dillinger filed its Complaint on the Defendants on May 24, 2012.
2. Service of Process was effected on each of the Defendants for whom an appearance has been entered in this matter on May 29, 2012 by Certified Mail, Return Receipt Requested. Dkt. 10.
3. An answer or other response was due 21 days after service, or June 19, 2012.
4. On June 18, 2012, Patty Hughel received an e-mail communication from Brad Harrigan, who indicated that he represented the defendants in this action and inquired whether there was any objection to a 21-day extension for the defendants to file responsive pleadings. A copy of the e-mail is attached as Exhibit “1” to the Declaration of Steven G. Cracraft attached hereto as Exhibit “A”.
5. The undersigned counsel telephoned Brad Harrigan and after he reiterated that he represented the Pour House on Lincoln, Inc. and Don Druse (and perhaps the Olsens), I orally agreed to a 21 day enlargement of time for responsive pleadings. Answers from all served defendants were therefore due July 10, 2012.

6. On June 21, 2012, I received by regular U.S. Mail, a document entitled Unopposed Motion for Extension of Time to Plead, signed by the Olsens, and by Mary Olsen, as Owner of The Pour House on Lincoln, Inc., a copy of which is attached as Exhibit "2". The Unopposed Motion for Extension of Time to Plead was never filed with this Court and was never effective. S.D. Ind. L.R. 6.1 (a).

7. On the day the informal enlargement of time would have expired if a notice advising of the extension had been filed, the undersigned counsel was contacted by Defendants' counsel seeking a 28 day extension of time because of his trial schedule. The above information was relayed to Defendants' counsel. The undersigned also indicated that Dillinger could not agree to a 28 day second enlargement of time.

8. Defendants are seeking in effect an extension of time to answer after the time to answer pursuant to Fed. R. Civ. Pro. 12(a)(1)(A) has expired, and thus must show excusable neglect. Fed. R. Civ. Pro 6(b)(1)(B). Defendants have failed to show any excuse for failing to answer in a timely manner.

9. Dillinger is sympathetic to Defendants' counsel's situation, but the fact remains that the Defendants have already in effect received one 21 day extension of time, and Defendants' counsel's trial schedule is not sufficient basis for an additional extension of 28 days, particularly given the number of lawyers at Woodard, Emhardt, Moriarty McNett & Henry LLP and the fact that no excusable neglect has been shown for the initial delay of 42 days.

Wherefore, Plaintiff Dillinger, LLC respectfully opposes Defendants' Motion for Extension of Time to Respond to Plaintiff's Complaint to the extent it requests 28 additional days before Defendants are required to respond to the Complaint in this action.

Respectfully submitted,

Dated: July 11, 2012

/s/Steven G. Cracraft/

Steven G. Cracraft, Atty. No. 3417-49

Patricia A. Hughel, Atty. No. 24115-49

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Attorneys for Plaintiff, Dillinger, LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on July 11, 2012, a copy of the foregoing was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Kurt N. Jones

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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP

/s/Steven G. Cracraft/

Steven G. Cracraft